

**UNITED STATES BANKRUPTCY COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
(Richmond Division)**

In re:)	
)	
ROSELAND VILLAGE, LLC)	Chapter 11
)	Case No. 11-30223-KRH
)	Jointly Administered
)	
Debtor.)	
)	

In re:)	
)	
G.B.S. HOLDING, LTD.,)	
)	
Debtor.)	
)	

**MOTION TO RESCHEDULE CONFIRMATION HEARING AND
RESET CERTAIN DEADLINES RELATED THERETO**

Miller and Smith Advisory Group, LLC (“Miller and Smith”), by counsel, hereby files this motion (the “Motion”) to reschedule the hearing to consider confirmation of the competing chapter 11 plans of reorganization filed by Miller and Smith and by Roseland Village, LLC, and G.B.S. Holding, Ltd. (together, the “Debtors”) and to reset certain related deadlines. In support of the Motion, Miller and Smith states as follows:

BACKGROUND

1. On July 9, 2013, this Court entered its Order Approving Disclosure Statement and Fixing Hearing on Confirmation and Times for Filing Objections to Confirmation and

Acceptances or Rejections of Plan (the “Scheduling Order”) [Docket No. 258]. Through the

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Scheduling Order, the Court approved the disclosure statement [Docket No. 202] filed by the Debtors in support of their Joint Second Amended Plan of Reorganization dated March 6, 2013 (the “Debtor Plan”) [Docket No. 201]. The Court also approved with certain modifications the seconded amended disclosure statement filed by Miller and Smith [Docket No. 253] in support of its Corrected Chapter 11 Plan of Reorganization dated April 25, 2013 (the “Miller and Smith Plan”, and together with the Debtor Plan, the “Competing Plans”) [Docket No. 220].

2. In addition to approving the disclosure statements, the Scheduling Order also set the hearing on confirmation of the Competing Plans for October 10, 2013, October 11, 2013, and October 15, 2013 (the “Confirmation Hearing”) and established certain related deadlines, as follows: (a) October 3, 2013 as the last day for filing written acceptances or rejections of the Competing Plans, “with amendment(s) thereto, *if applicable*” (emphasis in original); (b) fourteen days (14) prior to the Confirmation Hearing (or September 26, 2013) as the last day to file objections to confirmation of either of the Competing Plans; and (c) thirty-five (35) days prior to the Confirmation Hearing (or September 6, 2013) as the last day to serve by U.S. mail, on all creditors and parties in interest, the solicitation packages (the “Solicitation Packages”) for the Competing Plans.

3. The Solicitation Packages were served on September 6, 2013. *See Certificate of Service* [Docket No. 273]. The Solicitation Packages included, among other things, the Competing Plans and their respective disclosure statements, the Scheduling Order, ballots for accepting or rejecting the Competing Plans, and an explanatory cover letter from Miller and Smith and the Debtors.

4. The deadline to object to one or both of the Competing Plans was September 26, 2013. A total of nineteen objections (the “Objections”) were filed [Docket Nos. 278 through 296]. Every secured creditor objected to both of the Competing Plans.

5. On September 27, 2013, Miller and Smith filed its First Amended Chapter 11 Plan of Reorganization dated September 27, 2013 (the “Amended Miller and Smith Plan”) to address some of the issue raised in the Objections [Docket No. 301]. Also on September 27, 2013, Miller and Smith filed a blackline comparison (the “Blackline”) of the Amended Miller and Smith Plan to the Miller and Smith Plan [Docket No. 302]. Both the Amended Miller and Smith Plan and the Blackline were served by the Court’s CM/ECF system and by first class mail on all creditors and parties in interest on September 27, 2013. *See* Certificate of Service [Docket No. 303].

6. On October 1, counsel for Miller and Smith took the Rule 30(b)(6) deposition of the Debtors’ designated representatives in order to prepare for the confirmation hearing and the issues raised with respect to the confirmability of the Debtor Plan. Counsel for three secured creditors attended the deposition as well.

7. Ballots for accepting or rejecting either of the Competing Plans were due on October 3, 2013. A total of 28 ballots were received on or before the voting deadline.

8. At approximately 3:30 p.m. on October 3, 2013, after most ballots had already been submitted, the Debtors filed their Joint Third Amended Plan of Reorganization (the “Amended Debtor Plan”) [Docket No. 305]. Debtors’ counsel did not file a blackline comparison of the Amended Debtor Plan to the Debtor Plan, but did provide one to Miller and Smith’s counsel upon request.

RELIEF REQUESTED

9. Through this Motion, Miller and Smith requests that the Confirmation Hearing be rescheduled and that certain deadlines related to plan confirmation, including discovery deadlines, plan objection deadlines, and deadlines for submitting ballots, be reset. Miller and Smith also proposes that the parties appear before the Bankruptcy Court at 9:00 am on October 10, 2013, for a status and scheduling conference to discuss new proposed confirmation hearing dates and deadlines.

BASIS FOR RELIEF

10. The relief sought in the Motion is warranted because creditors did not have adequate time to read, understand, and consider the Amended Debtor Plan (and, to a lesser extent, the Amended Miller and Smith Plan) before the deadline for filing ballots had passed. As noted above, the Amended Debtor Plan was filed at approximately 3:30 p.m. While the ballots did not provide a specific time by which ballots had to be submitted, most creditors submitted their ballots before 6 p.m., the normal close of business. In most cases, the ballots were filed before creditors were aware that the Amended Debtor Plan had been filed and without knowledge of the specific contents of the Amended Debtor Plan.

11. The Amended Debtor Plan makes significant substantive changes to the treatment of creditors. As a result, many creditors are worse off under the Amended Debtor Plan than under the Debtor Plan which was served in the Solicitation Packages. The Amended Miller and Smith Plan also makes substantive changes, all of which are designed to provide creditors with additional protection and more options for the treatment of secured claims. Given the complexity of the Competing Plans and the lack of sufficient notice to allow a careful review, it is in the best interests of creditors to reschedule the Confirmation Hearing and reset certain related deadlines.

12. The fact that creditors need more time to consider the Plans is evidenced by the ballots submitted by Paragon Bank and Essex Bank. Paragon Bank and Essex Bank rejected both Competing Plans but reserved the right to amend their ballot after they have read and considered the Amended Debtor Plan and the Amended Miller and Smith Plan. Paragon Bank and Essex Bank also noted on their ballot that neither the Amended Debtor Plan nor the Amended Miller and Smith Plan were included in the Solicitation Packages.

13. Neither Paragon Bank nor Essex Bank indicated by what time they would amend their ballots, if at all. This affects the balloting summary and leads to further uncertainty as to whether either of the Competing Plans is confirmable. Candidly, at this point, Miller and Smith believes there is a high probability that neither of the Competing Plans is confirmable. Whether this is, in fact, the case is unclear, given the latest filings and the new factual and legal issues that they raise. What is clear, however, is that additional time is required for the latest plan amendments to be evaluated and for resolicitation of votes to be completed.

14. Finally, the relief sought in the Motion is appropriate to conserve judicial resources. The Court has reserved three full days for the Confirmation Hearing. It makes no sense to continue to reserve that time when the likelihood that either of the Competing Plans will be confirmed is slim. Moreover, there is insufficient time for parties to take necessary discovery with respect to the latest plan amendments in order to adequately prepare for the confirmation hearing as currently scheduled.

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WHEREFORE, for all of the reasons stated above, Miller and Smith requests that the Court (i) reschedule the Confirmation Hearing; (ii) reset certain deadlines related to plan confirmation, including discovery deadlines, plan objection deadlines, and deadlines for submitting ballots; (iii) hold a status and scheduling conference to discuss new confirmation hearing dates and deadlines at 9:00 am on October 10, 2013; and (iv) grant such other relief as may be just and proper.

October 4, 2013

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on the 5th day of October, 2013, I caused to be served via operation of the Court's CM/ECF electronic noticing system and/or U.S. mail, first class, postage prepaid, a true and correct copy of the foregoing Motion to Reschedule Confirmation Hearing and Reset Certain Deadlines Related Thereto, including a proposed form of order, on the parties identified on the attached service list.

/s/ Lawrence A. Katz

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